

Criminal Miscellaneous application no.27 of 2002
Ganesh Atwal.....

Petitioner

Versus

State of Uttaranchal and another

Respondents

Hon'ble M. M. Ghildiyal J.

By means of this petition the petitioner has challenged the order dated 9.1.2003 passed by Judicial Magistrate, Ranikhet district Almora by which his application for release of Maruti Van no.U.P.01/3119 has been rejected and order dated 5.2.2003 whereby the Sessions Judge, Almora has dismissed the revision filed by the petitioner.

Brief facts of the case are that on 28.12.2002 the police of P.S.Ranikhet checked the said vehicle and illicit liquor was found therein and the vehicle was seized. A case under section 72 of the Excise Act was registered. The District Magistrate has confiscated the vehicle to the government. The petitioner moved an application in the court of Judicial Magistrate, Ranikhet which was rejected by him vide order-dated 9.1.2003. Learned Sessions Judge Almora also dismissed the revision filed by the petitioner against the said order, vide order-dated 5.2.2003.

Heard Sri Lokendra Dobhal, learned counsel for the petitioner and learned A.G.A.

Learned counsel for the petitioner submitted that the vehicle is lying at the police station since 28.12.2002 and in case it is allowed to remain at the police station, the condition of the vehicle would be deteriorated and in the circumstances, the vehicle may be released in favour of the petitioner. The submission has force. In case the vehicle is kept at the police station, it would be ruined and its value would also be diminished.

The petition is allowed. The Judicial Magistrate, Ranikhet will release Maruti van No.UP01/3119 in favour of registered owner of the

vehicle on furnishing one surety of Rs.50,000.00 and on giving undertaking that the vehicle would be produced in the case as and when required by the court.

The application is accordingly disposed of finally.

(M. M. Ghildiyal J.)

March 27, 2003.

MPS